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HOUSE BILL 387

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE STATE PERMANENT FUND TASK FORCE

AN ACT

RELATING TO PROCUREMENT; EXEMPTING FROM THE PROCUREMENT CODE  
CONTRACTS FOR FINANCIAL ADVISOR SERVICES ENTERED INTO BY THE  
EDUCATIONAL RETIREMENT BOARD, THE STATE INVESTMENT OFFICER OR  
THE RETIREMENT BOARD CREATED PURSUANT TO THE PUBLIC EMPLOYEES  
RETIREMENT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-98 NMSA 1978 (being Laws 1984,  
Chapter 65, Section 71, as amended) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal  
property or services by a state agency or a local public body  
from a state agency, a local public body or external  
procurement unit except as otherwise provided in Sections

.153951.1

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1 13-1-135 through 13-1-137 NMSA 1978;

2 B. procurement of tangible personal property or  
3 services for the governor's mansion and grounds;

4 C. printing and duplicating contracts involving  
5 materials that are required to be filed in connection with  
6 proceedings before administrative agencies or state or federal  
7 courts;

8 D. purchases of publicly provided or publicly  
9 regulated gas, electricity, water, sewer and refuse collection  
10 services;

11 E. purchases of books and periodicals from the  
12 publishers or copyright holders thereof;

13 F. travel or shipping by common carrier or by  
14 private conveyance or to meals and lodging;

15 G. purchase of livestock at auction rings or to the  
16 procurement of animals to be used for research and  
17 experimentation or exhibit;

18 H. contracts with businesses for public school  
19 transportation services;

20 I. procurement of tangible personal property or  
21 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,  
22 by the corrections industries division of the corrections  
23 department pursuant to regulations adopted by the corrections  
24 commission, which shall be reviewed by the purchasing division  
25 of the general services department prior to adoption;

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underscoring material = new  
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1 J. minor purchases not exceeding five thousand  
2 dollars (\$5,000) consisting of magazine subscriptions,  
3 conference registration fees and other similar purchases where  
4 prepayments are required;

5 K. municipalities having adopted home rule charters  
6 and having enacted their own purchasing ordinances;

7 L. the issuance, sale and delivery of public  
8 securities pursuant to the applicable authorizing statute, with  
9 the exception of bond attorneys and general financial  
10 consultants;

11 M. contracts entered into by a local public body  
12 with a private independent contractor for the operation, or  
13 provision and operation, of a jail pursuant to Sections  
14 33-3-26 and 33-3-27 NMSA 1978;

15 N. contracts for maintenance of grounds and  
16 facilities at highway rest stops and other employment  
17 opportunities, excluding those intended for the direct care and  
18 support of persons with handicaps, entered into by state  
19 agencies with private, nonprofit, independent contractors who  
20 provide services to persons with handicaps;

21 O. contracts and expenditures for services or items  
22 of tangible personal property to be paid or compensated by  
23 money or other property transferred to New Mexico law  
24 enforcement agencies by the United States department of justice  
25 drug enforcement administration;

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1 P. contracts for retirement and other benefits  
2 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

3 Q. contracts with professional entertainers;

4 R. contracts and expenditures for litigation  
5 expenses in connection with proceedings before administrative  
6 agencies or state or federal courts, including experts,  
7 mediators, court reporters, process servers and witness fees,  
8 but not including attorney contracts;

9 S. contracts for service relating to the design,  
10 engineering, financing, construction and acquisition of public  
11 improvements undertaken in improvement districts pursuant to  
12 Subsection L of Section 3-33-14.1 NMSA 1978 and in county  
13 improvement districts pursuant to Subsection L of Section  
14 4-55A-12.1 NMSA 1978;

15 T. works of art for museums or for display in  
16 public buildings or places;

17 U. contracts entered into by a local public body  
18 with a person, firm, organization, corporation or association  
19 or a state educational institution named in Article 12, Section  
20 11 of the constitution of New Mexico for the operation and  
21 maintenance of a hospital pursuant to Chapter 3, Article 44  
22 NMSA 1978, lease or operation of a county hospital pursuant to  
23 the Hospital Funding Act or operation and maintenance of a  
24 hospital pursuant to the Special Hospital District Act;

25 V. purchases of advertising in all media, including

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1 radio, television, print and electronic;

2 W. purchases of promotional goods intended for  
3 resale by the tourism department; ~~and~~

4 X. procurement by or through the public education  
5 department from the federal department of education relating to  
6 parent training and information centers designed to increase  
7 parent participation; projects and initiatives designed to  
8 improve outcomes for students with disabilities; and other  
9 projects and initiatives relating to the administration of  
10 improvement strategy programs pursuant to the federal  
11 Individuals with Disabilities Education Act; provided that the  
12 exemption applies only to procurement of services not to exceed  
13 two hundred thousand dollars (\$200,000); and

14 Y. contracts for investment advisory services,  
15 investment management services or other investment-related  
16 services entered into by the educational retirement board, the  
17 state investment officer or the retirement board created  
18 pursuant to the Public Employees Retirement Act."

19 Section 2. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2005.

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